

ORIGINAL

FILED
Clerk
District Court

MAY 10 2006

For The Northern Mariana Islands
By _____
(Deputy Clerk)

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Attorney for Defendants Town, Inc., d.b.a.
Townhouse Dept. Store and Yun's
Corporation, d.b.a. Payless Supermarket

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF THE NORTHERN MARIANA ISLANDS

SAIPAN HANDICRAFT,

Plaintiff,

vs.

MICRONESIA WOODCRAFT ENT., INC.,
TIRZO J. ADRIATICO, individually and as
President of Micronesia Woodcraft Ent., Inc.,
A COMPANY, INC. dba Palm Tree Gift Shop,
ALINA'S, ARAM CO., LTD. dba Match,
ARENAS ENTERPRISE, INC. dba Ochee's Store,
ANTOINETTE F. CASTRO,
CHOON HEE LEE, HYUN JIN KIM,
COMMONWEALTH PACIFIC INT'L., INC.
dba Crystal Palace Gift Shop, TY BUN KUY,
FULL HOUSE, INC.
dba Micro Beach Hotel and CBA Store,
COSTA WORLD CORPORATION
dba Color Rich, DORA CO., LTD. dba Block's,
SHI.N.KA. FUJI MASSAGE PARLOR,
GREAT SUNSHINE CORPORATION
dba Haney,
J&T ENTERPRISES, INC. dba 7-Star Gift Shop,
KAN PACIFIC SAIPAN, LTD.
dba Mariana Resort & Spa Gift Shop,
KENKOZ CORP.,
KUMANOMI ISLAND CO., LTD.,
LK CORPORATION dba Rota Handicraft
LEE YOUNG JO, LEE BYUNG DEUK,
PACIFIC INT'L CORPORATION
dba Marianas Woodcraft,
PACIFIC SUN LINES, INC.
dba Beach Gal and Cinderella,
FRANCISCO S. PANGELINAN,
IGARASHI SHO o TEN, INC.,

Civil Action No. 05-0040

ANSWER OF DEFENDANTS
TOWN, INC., dba TOWNHOUSE
DEPARTMENT STORE and
YUN's CORPORATION, dba
PAYLESS SUPERMARKET
TO PLAINTIFF'S FIRST AMENDED
VERIFIED COMPLAINT; DEMAND
FOR JURY TRIAL

QJ CO., LTD. dba Beach Gift Shop,)
 RYU CORPORATION dba Ryu Gu Zyo Gift Shop,)
 TOTAL I CORPORATION,)
 TOWN, INC. dba Townhouse Dept. Store,)
 XUAN, BO LU,)
 YUN'S CORPORATION dba Payless Supermarket,)
 and,)
 JOHN DOES 1-30,)
 Defendants)

COMES NOW Defendants Town, Inc. d.b.a. Townhouse Department Store (Defendant Townhouse) and Yun's Corporation, d.ba. Payless Supermarket (Defendant Yun's Corp.), by and through undersigned counsel, and hereby answers the allegations set forth in Saipan Handicraft's (Plaintiff) First Amended Verified Complaint, as follows:

1. With respect to paragraph 1, Defendant Townhouse and Defendant Yun's Corp. admit the allegations.
2. With respect to paragraph 2, Defendant Townhouse and Defendant Yun's Corp. deny the allegations.
3. With respect to paragraph 3, Defendant Townhouse and Defendant Yun's Corp. admit the allegations.
4. With respect to paragraphs 4 through 25, Defendant Townhouse and Defendant Yun's Corp. are without knowledge or information sufficient to form a belief as to the truth of the allegations, and on that basis, deny the allegations.
5. With respect to paragraph 26, Defendant Townhouse and Defendant Yun's Corp. are without knowledge or information sufficient to form a belief as to the truth of the allegations, and on that basis, deny the allegations.

1 6. With respect to paragraph 27, Defendant Townhouse and Defendant Yun's Corp. are
2 without knowledge or information sufficient to form a belief as to the truth of the
3 allegations, and on that basis, deny the allegations.

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5 7. With respect to paragraph 28, Defendant Townhouse and Defendant Yun's Corp. admit
6 that Lee Byung Deuk is a CNMI resident and owner of Rota Handicraft. Defendant
7 Townhouse and Defendant Yun's Corp. are without knowledge or information sufficient
8 to form a belief as to the truth of the allegations, and on that basis, deny all other
9 allegations in paragraph 28.

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11 8. With respect to paragraphs 29 through 35, Defendant Townhouse and Defendant Yun's
12 Corp. are without knowledge or information sufficient to form a belief as to the truth of
13 the allegations, and on that basis, deny the allegations.

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15 9. With respect to paragraph 36, Defendant Townhouse and Defendant Yun's Corp. admit
16 that TOWN, INC. is a CNMI corporation, which does business in the CNMI as, among
17 other stores, Townhouse Department Store. Defendant Townhouse and Defendant Yun's
18 Corp. admit that it has sold dolls prior to being named as defendants in this civil action.
19 Defendant Townhouse and Defendant Yun's Corp. deny all remaining allegations in
20 paragraph 36.

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22 10. With respect to paragraph 37, Defendant Townhouse and Defendant Yun's Corp. are
23 without knowledge or information sufficient to form a belief as to the truth of the
24 allegations, and on that basis, deny the allegations.

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26 11. With respect to paragraph 38, Defendant Townhouse and Defendant Yun's Corp. admit
27 that Yun's Corporation is a CNMI corporation in the CNMI as, among other stores,
28

1 Payless Supermarket. Defendant Townhouse and Defendant Yun's Corp. admit that it
2 sold dolls prior to the filing of the present civil action. Defendant Townhouse and
3 Defendant Yun's Corp. deny all remaining allegations in paragraph 38.

4
5 12. With respect to paragraphs 39 through 64, Defendant Townhouse and Defendant Yun's
6 Corp. are without knowledge or information sufficient to form a belief as to the truth of
7 the allegations, and on that basis, deny the allegations.

8
9 13. With respect to paragraphs 65 through 88, Defendant Townhouse and Defendant Yun's
10 Corp. are without knowledge or information sufficient to form a belief as to the truth of
11 the allegations, and on that basis, deny the allegations.

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13 14. Defendant Townhouse and Defendant Yun's Corp. deny any and all allegations in
14 paragraphs 1 through 88 of the First Amended Complaint not specifically admitted herein.

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16 15. With respect to paragraph 89, Defendant Townhouse and Defendant Yun's Corp. admit
17 the averment that Plaintiff has protested alleged infringements and activities. Defendant
18 Townhouse and Defendant Yun's Corp. are without knowledge or information sufficient
19 to form a belief as to the truth of the averments as to how such communications were
20 allegedly made, and on that basis, deny the remaining allegations.

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22 16. With respect to paragraph 90, Defendant Townhouse and Defendant Yun's Corp. deny the
23 allegations.

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25 17. With respect to paragraphs 91 to 97, Defendant Townhouse and Defendant Yun's Corp.
26 deny the allegations.

1 18. With respect to paragraph 98, Defendant Townhouse and Defendant Yun's Corp. repeat
2 and incorporate by reference its answers to paragraphs 1 through 97.

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4 19. With respect to paragraphs 99 through 103, Defendant Townhouse and Defendant Yun's
5 Corp. deny the allegations.

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7 20. With respect to paragraph 104, Defendant Townhouse and Defendant Yun's Corp. repeat
8 and incorporate by reference its answers to paragraphs 1 through 103.

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10 21. With respect to paragraphs 105 through 107, Defendant Townhouse and Defendant Yun's
11 Corp. deny the allegations.

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13 22. With respect to paragraph 108, Defendant Townhouse and Defendant Yun's Corp. repeat
14 and incorporate by reference its answers to paragraphs 1 through 107.

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16 23. With respect to paragraphs 109 through 111, Defendant Townhouse and Defendant Yun's
17 Corp. deny the allegations.

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19 24. With respect to paragraph 112, Defendant Townhouse and Defendant Yun's Corp. repeat
20 and incorporate by reference its answers to paragraphs 1 through 111.

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22 25. With respect to paragraphs 113 through 115, Defendant Townhouse and Defendant Yun's
23 Corp. deny the allegations.

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25 26. With respect to paragraph 116, Defendant Townhouse and Defendant Yun's Corp. repeat
26 and incorporate by reference its answers to paragraphs 1 through 115.

1 27. With respect to paragraphs 117 though 120, Defendant Townhouse and Defendant Yun's
2 Corp. deny the allegations.

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4 28. With respect to paragraph 121, Defendant Townhouse and Defendant Yun's Corp. repeat
5 and incorporate by reference its answers to paragraphs 1 through 120.

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7 29. With respect to paragraph 122 through 124, Defendant Townhouse and Defendant Yun's
8 Corp. deny the allegations.

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10 30. With respect to paragraph 125, Defendant Townhouse and Defendant Yun's Corp. repeat
11 and incorporate by reference its answers to paragraphs 1 through 124.

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13 31. With respect to paragraphs 126 through 131, Defendant Townhouse and Defendant Yun's
14 Corp. deny the allegations.

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16 32. With respect to paragraph 132, Defendant Townhouse and Defendant Yun's Corp. repeat
17 and incorporate by reference its answers to paragraphs 1 through 131.

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19 33. With respect to paragraphs 133 through 135, Defendant Townhouse and Defendant Yun's
20 Corp. deny the allegations.

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22 34. With respect to paragraph 136, Defendant Townhouse and Defendant Yun's Corp. repeat
23 and incorporate by reference its answers to paragraphs 1 through 135.

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25 35. With respect to paragraphs 137 through 144, Defendant Townhouse and Defendant Yun's
26 Corp. deny the allegations.

1 36. With respect to paragraph 145, Defendant Townhouse and Defendant Yun's Corp. repeat
2 and incorporate by reference its answers to paragraphs 1 through 144.

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4 37. With respect to paragraphs 146 through 152, Defendant Townhouse and Defendant Yun's
5 Corp. deny the allegations.

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7 **AFFIRMATIVE DEFENSES**

8 Defendant Townhouse and Defendant Yun's Corp. raise the following affirmative
9 defenses against Plaintiff:

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11 1. Plaintiff has failed to state a claim upon which relief may be granted.

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13 2. Acquiescence.

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15 3. Laches.

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17 4. Estoppel.

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19 5. Waiver.

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21 6. Plaintiff has claimed trademarks that are not protectible because they are
22 descriptive of the products and do not state the origin or manufacturer of the
23 products.

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25 7. Prior use of the alleged trademark and trade dress by a party other than Plaintiff.

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27 8. Plaintiff's alleged trademark and trade dress are not registered with the United
28 States Patent and Trademark Office.

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2 9. Plaintiff's alleged trade dress is aesthetically functional.

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4 10. Plaintiff's alleged trade dress is not distinctive and have not acquired secondary
5 meaning.

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7 11. Plaintiff's failure to comply with the requirement of F.R.C.P. 9(b) that averments
8 of fraud be stated with particularity

9
10 **DEMAND FOR JURY TRIAL**

11 Defendant Townhouse and Defendant Yun's Corp. hereby request that all issues in this
12 matter be resolved at a trial by jury pursuant to F.R.C.P. 38.

13
14 **PRAYER FOR RELIEF**

15 For the foregoing reasons, Defendant Townhouse and Defendant Yun's Corp. pray that the
16 court grant the following relief:

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18 1. That Plaintiff take nothing from his claims against Defendant Townhouse and Defendant
19 Yun's Corporation.


20
21 2. That Plaintiff's First Amended Verified Complaint be dismissed with prejudice.

22
23 3. That the costs of defending these claims be assessed against Plaintiff pursuant to 15 U.S.C.
24 § 1117(a).

25
26 4. That Plaintiff's Registration Numbers, if they exist as alleged, be cancelled as authorized
27 by 15 U.S.C. § 1119.

1 5. Such other and further relief as the court may find just and proper.

2
3 RESPECTFULLY SUBMITTED this 10th day of May, 2006.

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6 Edward Manibusan
7 Attorney for Defendants Town, Inc., d.b.a.
8 Townhouse Dept. Store and Yun's
9 Corporation, d.b.a. Payless Supermarket
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